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**Section III:**  
**AMENDMENT UNDER 37 CFR §1.121 to the**  
**DRAWINGS**

No amendments or changes to the Drawings are proposed.

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**Section IV:**  
**AMENDMENT UNDER 37 CFR §1.121**  
**REMARKS**

**Rejections under 35 U.S.C. §101**

In the Office Action, method claims 1 - 10 were rejected under 35 U.S.C. §101 for directing claims to non-statutory matter. Claim 1 is an independent claim from which claims 2 - 10 depend.

With respect to being directed towards the technological arts, the method claims specify automatic operations instead of manual operations, display indicators which are devices, and datastores and databases which are portions of machines.

With respect to producing a useful, concrete and tangible result, the claims specify that a product display fixture indicator is activated, such as an LED on a shoe display fixture or a projector image around a product on a table, for drawing the attention of the consumer to the desired product which is physically on display using a retail type of display fixture, such as a slatwall display, faceout display, gridwall display, product riser, etc. (see our paragraphs [0003] - [0005], [0023], [0026] - [0028], Figs 1, 2, 3 and 7). Thus, this result produced by the claimed method is useful (it draws the consumer's attention to a product on display in which the consumer may be interested), and it is concrete and tangible (e.g. it provides a human-perceivable visual and/or audible output on a physical thing).

For these reasons, withdrawal of the rejections of claims 1 - 10 under 35 U.S.C. §101 is requested.

**Rejections under 35 U.S.C. §102(a)**

In the Office Action, claims 1 - 3, 5, 10 - 13, 15, 20 - 23, 25 and 30 were rejected under 35 U.S.C. §102(b) for lack of novelty as being anticipated by U.S. Patent Number 5,459,306 to Stein, *et al.* (hereinafter "Stein").

By "retail display fixture" (our Figs. 1 and 2), we are referring to variety physical devices which are used to place products on display in an area where a consumer may physically observe the products (our Fig. 3), such as a retail showroom, wholesale warehouse, etc. These types of retail display fixtures include fixtures such as a base display with additional display tiers upon

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which a plurality of items for sale are displayed (e.g. retail fixtures for clothing, electronics, books, etc.), or a shelf- or wall-based display fixture such as slatwalls and gridwall fixtures, including product risers, and product "faceouts" (our paragraphs [0003] - [0004], figures 1 and 2).

By "display unit indicator mounted on or near a retail display fixture", we mean an visual or audible indicator for attracting a consumer's attention, such as a high-intensity LED, alpha-numeric LCD, or computer-driven projectors, mounted on, integrated into, or affixed near the "retail display fixture" (our paragraphs [0026 - 0028], figure 7).

Stein is silent as to providing our display unit indicator on or near a retail display fixture as we have defined and claimed. For these reasons, applicant requests withdrawal of the rejections of and allowance of Claims 1 - 3, 5, 10 - 13, 15, 20 - 23, 25 and 30, whereas the cited reference does not teach all claimed steps, elements, and limitations.

#### **Rejections under 35 U.S.C. §103**

In the Office Action, claims 4, 6 - 9, 14, 16 - 19, 24, and 26 - 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Stein in view of a website capture from www.alerts.com as published by Wayback Machine (hereinafter "Alerts").

Claims 4 and 6 - 9 depend from Claim 1; claims 14 and 16 - 19 depend from claim 11; and claims 24, and claims 26 - 29 depend from claim 22. Stein in view of Alerts is silent as to providing our display unit indicator on or near a retail display fixture as we have defined and claimed. There is no suggestion or motivation taught by either Stein or Alerts to modify either reference to include a retail display fixture with a display unit indicator.

For these reasons, applicant requests withdrawal of the rejections of and allowance of claims 4, 6 - 9, 14, 16 - 19, 24, and 26 - 29, whereas the cited references and combination do not teach all claimed steps, elements, and limitations.

Respectfully,

*/ Robert Frantz /*

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